

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN S. CLABAUGH, JR.,

Defendant.

4:12-CR-3046

MEMORANDUM AND ORDER

This matter is before the Court on a letter received from the defendant, John Clabaugh, that has been docketed as a motion for miscellaneous relief. Filing 59. Clabaugh pleaded guilty to one count of failure to pay over withholding and FICA taxes, in violation of 26 U.S.C. § 7202, and was sentenced to a term of 6 months' imprisonment, followed by 3 years' supervised release, which included 6 months of home confinement. *See*, filings 1, 33, and 56.

As of the date of this order, Clabaugh has served approximately 4 months of his prison term. In his letter, he asks the Court to convert the remainder to a term of home confinement. Clabaugh offers a number of reasons for his request. Most notably, he wishes to support his wife, who has been forced to shoulder a number of stressful and time-consuming burdens by herself. Clabaugh also notes the steps he has taken toward rehabilitation and to make his time in prison as productive as possible.

The steps Clabaugh has taken to rehabilitate himself are to be commended. It is unfortunate that his conviction has resulted in hardship for his family; a term of imprisonment often works hardships on other family members. Unfortunately, none of this changes the fact that the Court lacks the authority to grant Clabaugh the relief he seeks.

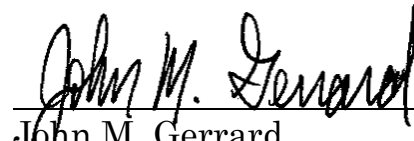
Generally speaking, once the Court has imposed a sentence, it cannot change or modify that sentence unless such authority is expressly granted by statute. *United States v. Thompson*, 714 F.3d 946, 948 (6th Cir. 2013); *see also*, 18 U.S.C. § 3582(c); *United States v. Liberse*, 688 F.3d 1198, 1201 (11th Cir. 2012); *United States v. Davis*, 682 F.3d 596, 609 (7th Cir. 2012); *United States v. Blackwell*, 81 F.3d 945, 947–48 (10th Cir. 1996). This includes requests to convert a term of imprisonment to home confinement. *See In re Morris*, 345 Fed. Appx. 796 (3d Cir. 2009). Accordingly,

IT IS ORDERED:

1. The defendant's motion for miscellaneous relief (filing 59) is denied.
2. The Clerk's Office is directed to mail a copy of this Memorandum and Order to the defendant at his address of record (Bristol Station).

Dated this 8th day of May, 2014.

BY THE COURT:



John M. Gerrard
United States District Judge